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13 Litigation Finance Fund International SP*

14 **UNITED STATES BANKRUPTCY COURT**

15 **DISTRICT OF NEVADA**

16 In re:

17 INFINITY CAPITAL MANAGEMENT, INC.

18 Debtor.

19 Case No. 21-14486-abl
20 Chapter 7

21 HASELECT-MEDICAL RECEIVABLES
22 LITIGATION FINANCE FUND
23 INTERNATIONAL SP,

24 Plaintiff,

25 Adversary Case No. 21-01167-abl

26 v.
27 TECUMSEH-INFINITY MEDICAL
28 RECEIVABLES FUND, LP,

29 Defendant.

30 **NOTICE OF ISSUANCE OF
31 SUBPOENA TO TESTIFY AT A
32 DEPOSITION IN A BANKRUPTCY
33 CASE (OR ADVERSARY
34 PROCEEDING)**

35 TECUMSEH-INFINITY MEDICAL
36 RECEIVABLES FUND, LP,

37 Counter-Plaintiff,

38 v.
39 HASELECT-MEDICAL RECEIVABLES
40 LITIGATION FINANCE FUND
41 INTERNATIONAL SP; ROBERT E. ATKINSON,
42 CHAPTER 7 TRUSTEE

43 Counter-Defendants.

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1 TO ALL INTERESTED PARTIES AND THEIR RESPECTIVE COUNSEL:

2 PLEASE TAKE NOTICE that, pursuant to Fed. R. Bankr. P. 9016 and Fed. R. Civ. P. 45,
3 that Plaintiff HASelect-Medical Receivable Litigation Finance Fund International SP intends to
4 serve a Subpoena, in the form attached hereto as Exhibit 1, on SIMON CLARK on the date of this
5 notice, or as soon thereafter as service may be effectuated.

6 Dated this 13th day of June 2023.

7 **SHEA LARSEN**

8 */s/ Bart K. Larsen, Esq.* _____

9 BART K. LARSEN, ESQ.

10 Nevada Bar No. 8538

11 KYLE M. WYANT, ESQ.

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20 (702) 471-7432

CERTIFICATE OF SERVICE

1. On June 13, 2023, I served the following document(s): **NOTICE OF**
 2. **ISSUANCE OF SUBPOENA TO TESTIFY AT A DEPOSITION IN A**
 3. **BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)**
4. I served the above document(s) by the following means to the persons as listed below:

5. a. ECF System:

6. CLARISSE L. CRISOSTOMO on behalf of ROBERT E. ATKINSON

7. clarisse@nv-lawfirm.com, bknotices@nv-lawfirm.com

8. GERALD M GORDON on behalf of TECUMSEH-INFINITY MEDICAL

9. RECEIVABLES FUND, LP
 10. ggordon@gtg.legal, bknotices@gtg.legal

11. MICHAEL D. NAPOLI on behalf of TECUMSEH-INFINITY MEDICAL

12. RECEIVABLES FUND, LP
 13. michael.napoli@akerman.com,
 14. cindy.ferguson@akerman.com; catherine.kretzschmar@akerman.com; laura.taveras@akerman.com; masterdocketlit@akerman.com; teresa.barrera@akerman.com

15. ARIEL E. STERN on behalf of TECUMSEH-INFINITY MEDICAL

16. RECEIVABLES FUND, LP
 17. ariel.stern@akerman.com, akermanlas@akerman.com

18. b. United States mail, postage fully prepaid:

19. c. Personal Service:

20. I personally delivered the document(s) to the persons at these addresses:

21. For a party represented by an attorney, delivery was made by

22. handing the document(s) at the attorney's office with a clerk or other person in
 23. charge, or if no one is in charge by leaving the document(s) in a conspicuous place
 24. in the office.

25. For a party, delivery was made by handing the document(s)

26. to the party or by leaving the document(s) at the person's dwelling house or usual
 27. place of abode with someone of suitable age and discretion residing there.

28. d. By direct email (as opposed to through the ECF System):

29. Based upon the written agreement of the parties to accept service by email or a
 30. court order, I caused the document(s) to be sent to the persons at the email
 31. addresses listed below. I did not receive, within a reasonable time after the
 32. transmission, any electronic message or other indication that the transmission was
 33. unsuccessful.

34. e. By fax transmission:

35. Based upon the written agreement of the parties to accept service by fax

36. transmission or a court order, I faxed the document(s) to the persons at the fax
 37. numbers listed below. No error was reported by the fax machine that I used. A copy
 38. of the fax is attached as Exhibit A.

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1 of the record of the fax transmission is attached.
2

3 f. By messenger:
4

5 I served the document(s) by placing them in an envelope or package addressed to
6 the persons at the addresses listed below and providing them to a messenger for
7 service.
8

9 I declare under penalty of perjury that the foregoing is true and correct.
10

11 Dated: June 13, 2023.
12

13 By: /s/ Bart K. Larsen, Esq.
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EXHIBIT 1

UNITED STATES BANKRUPTCY COURT

District of Nevada

In re Infinity Capital Management, Inc.

Debtor

Case No. 7

(Complete if issued in an adversary proceeding)

HASElect-Medical Receivables Litigation Finance Fund International SP

Chapter 21-14486-abl

Plaintiff

Adv. Proc. No. 21-01167-abl

Tecumseh-Infinity Medical Receivables Fund, LP

Defendant

**SUBPOENA TO TESTIFY AT A DEPOSITION
IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)**

To: Simon Clark - 2506 Knollwood Road, Charlotte NC 28211

(Name of person to whom the subpoena is directed)

Testimony: **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

PLACE	DATE AND TIME
Via audiovisual connection (Zoom, etc.) with details to be provided	June 30, 2023 at 9:00 a.m. (PDT)

The deposition will be recorded by this method: Stenographic means until completed

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 6/13/2023

CLERK OF COURT

OR

/s/ Bart K. Larsen, Esq.Signature of Clerk or Deputy ClerkAttorney's signature

The name, address, email address, and telephone number of the attorney representing (*name of party*) HASElect-Medical Receivables Litigation Finance Fund International SP, who issues or requests this subpoena, are:

Bart K. Larsen, Esq. 1731 Village Center Circle, Suite 150, Las Vegas, Nevada 89134

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE**(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)**

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____.

I served the subpoena by delivering a copy to the named person as follows: _____

on (*date*) _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...

(g) *Contempt.* The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.